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July 11, 2024

Via ECF

Honorable Lewis J. Liman, U.S.D.J.
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

RE: JC Hospitality, et al. v. Hochberg
Docket No.: 1:23-cv-02051-LJL

Dear Judge Liman:

This office represents the Plaintiffs, JC Hospitality, LLC and Jayma Cardoso ("Plaintiffs") in the above referenced matter. We write to Your Honor ahead of the previously scheduled discovery conference set for this Friday, July 12, 2024, at 2:00 PM in light of Defendant Hochberg's willful refusal to comply with the Court's Orders and answer discovery.

On May 1, 2024, Plaintiffs served its Requests for (a) Interrogatories, (b) Production of Documents, and (c) Requests for Admissions to Defendant Hochberg *via* ECF and email copy. Pursuant to Fed. R. Civ. Pro. 33, 34, and 36, Defendant Hochberg's responses to Plaintiffs' Requests for Interrogatories, Production of Documents, and Requests for Admissions were due no later than May 31, 2024, and she became in Default at such time. As of date, Plaintiffs have not received any discovery responses from Defendant Hochberg and therefore remain extremely overdue. Additionally, Defendant Hochberg, who is acting *pro se* and must be held to the same responsibilities and obligations as an attorney, has still **not** served Plaintiffs with any demands for discovery. As a result of Defendant's refusal to comply with the Court Rules and the Court's directives, no written discovery has been received by Ms. Hochberg to date, no discovery has been served upon Plaintiffs from Ms. Hochberg, and no depositions¹ have taken place.

As the Court is aware, on June 24, 2024, during the most recent telephone conference held in this case, Defendant Hochberg did not appear for the Order to Show Cause hearing, nor oppose same in writing. At the close of the hearing, Your Honor granted Plaintiffs' Order

¹ Regardless of whether she complies, Plaintiffs will serve Defendant Hochberg anyway with our notice for a deposition date in early August 2024. Since Defendant continues to refuse to provide us and this Court with her address, service will continue to be conducted *via* ECF and e-mail the same as this letter.



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to Show Cause and further allowed this office to make a separate application for attorneys' fees against Defendant Hochberg in the form of sanctions, which we are in the process of preparing and filing.

As of this time, Plaintiffs currently have a pending Motion for Default against Defendant Hochberg that was filed by Plaintiffs on May 28, 2024 for Defendant's failure to attend the May 9, 2024 settlement conference before Judge Parker, and for Defendant's failure to engage in discovery. Since Plaintiffs' Motion for Default remains unopposed, we respectfully request this Court to enter Default against Defendant Hochberg for: (a) failing to attend the May 9, 2024 settlement conference before Judge Parker; (b) failing to produce answers to Plaintiffs' demands for Interrogatories, Documents and Requests for Admissions; (c) failing to attend the June 24, 2024, status and Order to Show Cause conference, and for (d) failing to provide a valid and proper home address in order for Plaintiffs to serve Defendant Hochberg with documents in this case pursuant to Your Honor's repeated orders. Additionally, pursuant to our Motion for Default and supporting Declaration of Counsel, Plaintiffs respectfully request this Court order that Defendant Hochberg immediately delete "@thesurflogdesanctuary" account from Instagram and any other social media platforms or websites, produce all messages and communications within that account for discovery purposes before doing so, and prohibit Defendant Hochberg from further using any name, trademark, or other intellectual property associated with Plaintiffs and The Surf Lodge trademarks.

Because Plaintiffs have not received any discovery from Ms. Hochberg to date, we believe it may be futile to proceed with a discovery conference this Friday. In light of the foregoing, we respectfully request this Court to conduct a hearing on Plaintiffs' pending Motion for Default against Defendant Hochberg, if the Court deems it necessary despite the motion remaining unopposed.

We thank Your Honor for your time and attention in this matter. We will await the Court's instructions going forward. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

/s/ John J. Zidziunas

JOHN J. ZIDZIUNAS
For the Firm

C: Marisa Hochberg (*via* ECF and email)